

Public Assistance Program 2015-0831 Winter Storm Fact Sheet

Eligible Applicants

Organization Type	Examples
State Government	Departments, Agencies, Boards, Commissions, Authorities, Universities
Local Government	Counties, Townships, Cities, Villages, Districts
Private Non-Profit (PNP) Facilities that provide critical services are eligible – facilities that provide non-critical services must first apply for a disaster loan from SBA – if loan is declined the PNP is eligible to apply for FEMA assistance.	Hospitals, primary and secondary schools, utility cooperatives, museums, zoos, homeless shelters, libraries, community centers, senior citizens centers, rehabilitation centers, shelter

Work Eligibility

The following eligibility criterion applies to all types of work and all applicants. These three criteria are all required, but there may be addition criteria for specific types of work or facilities.

- The work MUST be required as a result of the Presidential declared disaster.
- The work MUST be within the designated geographical area.
- The work MUST be the legal responsibility of an eligible applicant at the time of the event.

Emergency Work

Emergency work is done immediately to save lives, protect and preserve property, public health and safety, and to provide temporary facilities to restore essential public services. Emergency work categories are identified by FEMA by the letters “A” and “B” and include the following areas of work:

- Category A – Debris Removal: Public assistance provides for removal of debris and wreckage resulting from a major disaster or emergency. Eligible work includes removal from public roads and streets, including right of way, other public property, and in special cases, private property.
- Category B – Emergency Protective Measures: Public assistance provides reimbursement for emergency protective measures to save lives, remove health and safety hazards and to protect property. (Rescue, Notification and Prevention) - activations of EOCs, temporary generator usage, removal of health and safety hazards, debris removal for emergency traffic, preventative measures - salting roads, sheltering (supplies needed to operate a shelter).

Example: Snow Removal, Snow Dumps De-Icing, Salting and Sanding of Roads and other Facility, Sheltering/Mass Care, Search and Rescue, Provisions of Emergency Medical Care, Bracing and Shoring of Damaged Structures, Provision of Food, Water, Ice and Essential Needs at Distribution Points for use by Locals, Emergency Repair and Demolition.

Public Assistance Program

2015-0831 Winter Storm Fact Sheet

Permanent Work

Permanent work provides assistance for repairing, restoring, reconstructing, or replacing any public facility belonging to an eligible applicant.

The federal contribution is made on the basis of the design of the facility as it exist immediately prior to the disaster and/or in conformity with applicable local, state and national codes, specifications, and standards. Public facility includes any publicity owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development; or airport facility; and non-federal aid street, road or highway; or any other public building structure or system, including those used for educational, recreational, or cultural purposes.

Permanent work categories are identified by FEMA by the letters “C” through “G” and include the following areas of work:

- Category C – Road Systems – roads, bridges, traffic controls, streets, culverts, etc.
- Category D – Water Control Facilities – dikes, levees, dams, drainage channels and irrigation systems
- Category E – Public Buildings and Equipment – public buildings, supplies or inventory, vehicle or other equipment, transportation systems and higher education facilities
- Category F – Public Utilities Systems – storm water drainage, sanitary sewage, light and power
- Category G – Other – Park Facilities – recreational facilities

Cost Eligibility

Title 2 CFR, 200.317-326 establishes the general policies for allowable costs that may be claimed for the performance of eligible work. Recipients may use their own procurement procedures, as long as those procedures meet the minimum standards in 2 CFR 200.317-326.

Generally, reasonable costs that can be directly tied to the performance of eligible work will be eligible. This includes all force account costs. The term “force account” refers to the applicant’s use of its own employees, materials and equipment. Also contracts awarded for the performance of eligible work may be eligible.

Force account labor costs include actual wages paid, straight time and overtime for permanent repair or restoration work only, plus fringe benefits actually paid or credited for personnel on the job and for supervisory personnel who are not normally employed in the field are not eligible, unless they are working full time on the project.

Emergency Work labor costs only include actual wages paid for overtime, plus a prorated share of fringe benefits for personnel. This provision of the Davis-Bacon Act that related to wages to be paid on Federal contracts on public building or works, do not apply to State or Local contracts using Public Assistance Funds under the Stafford Act. Applicants are required to comply with the Kentucky Prevailing Wage Act regarding the labor rates and standards for contracts using Public Assistance funds.

In general to be eligible for reimbursement, a cost must be:

- Reasonable and necessary to accomplish eligible work.
- Comply with Federal, State and Local requirements for procurement.

Public Assistance Program 2015-0831 Winter Storm Fact Sheet

- Not include (or be reduced by) insurance proceeds, salvage value and other credits.

Other standards include:

- Having written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in contract award and administration.
- Maintaining records to detail the significant history of procurement action.
- Performing a cost or price analysis for procurement actions exceeding \$150,000.
- Having efforts to contract with small and women/minority-owned businesses.
- Include certain specific provisions in the contract.

Acceptable methods of selecting a contractor include:

- Micro purchase procedures (for purchases under \$3,000)
- Small purchase procedures (for purchases under \$150,000)
- Sealed bids;
- Competitive proposals
- Noncompetitive proposals

Procurement by noncompetitive proposals may be used **ONLY** under one of the following circumstances

- The item is available from only a single source;
- After solicitation of a number of sources, competition is determined inadequate, or
- A public emergency exists that will not permit a delay resulting from competitive solicitation*

*The “public emergency” exception can be used only until the emergency ends, at which time the contract must be re-solicited with full and open competition.

Watch out for:

- Time and Material Contracts – FEMA only reimburses a Recipient for the first 70 hours of a time and material contract for work that is necessary immediately after the disaster. Time and material contracts can be used only (1) when no other contract is suitable and (2) if the contract includes a ceiling price that the contractor exceed at its own risk.
- Cost Plus a Percentage of Cost and Percentage of Construction Cost Contract – These are contracts where the contractor’s profit is based on a percentage of the underlying project costs. **Such contracts are ineligible for FEMA funding.** These contracts incentivize the contractor to increase costs in order to increase profit.
- Piggyback Contracts – Adopting a pre-existing contract is referred to as “piggybacking”. FEMA closely reviews piggyback contracts because the original underlying contract often does not meet the above requirements, having often been issued under different circumstances and for a different scope of work.

Also, please be reminded that all procurement procedures must be followed at a minimum federal procurement per 2CFR 200.317-326. This means, entities must have a methodology when stepping outside of their normal procurement practices. Entities must be able to show they attempted to get the “best value”.

Public Assistance Program
2015-0831 Winter Storm Fact Sheet